

1-703-308-7751
Attn: Sean Hill

Patent
USSN 09/541,351
Atty Docket 20060

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

Francisco Jose Barreras, Sr. and
Oscar Jimenez

For: RF COUPLED, IMPLANTABLE MEDICAL
DEVICE WITH RECHARGEABLE BACK-UP
POWER SOURCE

Serial No. 09/541,351

Filed: March 31, 2000

Reissue of U.S. Patent No. 5,733,313

Issued: March 31, 1998

Group Art Unit:
Unknown

Examiner:
Unknown

10/9/2001
Sent by Fax to
Linda Hallman
Fax: 703/305-9863

**TRANSMITTAL OF EXECUTED SUBSTITUTE REISSUE
DECLARATION BY THE INVENTORS, POWER OF ATTORNEY
AND ASSENT OF ASSIGNEE**

TO:
Assistant Commissioner of Patents
Washington, D.C. 20231

Dear Sir:

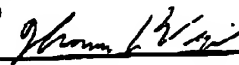
On March 31, 2000 applicants filed the subject reissue application with an unsigned Substitute Reissue Declaration By The Inventors, Power Of Attorney And Assent Of Assignee.

CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service as first-class mail in an envelope addressed to Commissioner of Patents and Trademarks, Washington, DC 20231 on

Date

5/23/01



Reissue Application
Patent
USSN (Unknown)
Atty Docket 20060

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: Francisco Jose Barreras, Sr.
and Oscar Jimenez

Serial No. (Unknown)

Filed: March 30, 2000

For: RF COUPLED, IMPLANTABLE MEDICAL
DEVICE WITH RECHARGEABLE BACK-UP
POWER SOURCE

Art Unit:
Examiner:

Reissue of U.S. Patent No. 5,733,313

Issued: March 31, 1998

**SUBSTITUTE REISSUE DECLARATION BY THE INVENTORS,
POWER OF ATTORNEY AND ASSENT OF ASSIGNEE**

As a below named inventor, I hereby declare that:

1. My residence/address and citizenship is stated below next to my name.
2. I have reviewed and understand the contents of the specification of the above-identified reissue application, including the original claims and the new claim 29 added to the application.
3. I believe I am an original, first and joint inventor of the subject matter which is described and claimed in U.S. Patent No. 5,733,313 granted March 31, 1998, and for which a reissue patent is sought on the invention entitled: RF COUPLED, IMPLANTABLE MEDICAL DEVICE WITH RECHARGEABLE BACK-UP POWER SOURCE.
4. I acknowledge the duty to disclose information which is material to the examination of this application in accordance with Title 37, Code of Federal Regulations, § 1.56.
5. I declare that I believe that the original patent identified above is wholly

or partly inoperative or invalid by reason of my claiming less than I had a right to claim in the patent, the errors arising without any intention of deception on my part.

6. The errors in the claims reside in an unnecessary limitation in the claims. In particular, claim 1 of the patent calls for the limitation of a receiving unit which includes an "RF signal transmitting means" to enable the receiving unit to transmit information back to the transmitting unit. I have determined that the system can operate to charge or control the charging of the battery of an implantable device coupled to the receiving unit without the need for feedback via an "RF signal transmitting means". Accordingly, the provision of an "RF signal transmitting means" is an unnecessary limitation.

7. The reissue application contains three new independent claims 29, 30 and 31.

The new claims 29, 30 and 31 read as follows:

29. An RF coupled implantable medical system comprising:

a transmitting unit;

a receiving unit including an implantable, electrically operated, medical device, RF energy receiving means, and a rechargeable battery; and,

said transmitting unit including a power source and an RF energy transmitting means.

30. An RF coupled implantable medical system comprising:

a transmitting unit;

a receiving unit including an implantable, electrically operated, medical device, RF energy receiving means, and a rechargeable battery; and,

said transmitting unit including a power source and an RF energy transmitting means; and,

control means coupled to said rechargeable battery, and to said implantable medical device, for adjusting the charging current flowing into said rechargeable battery.

31. An RF coupled implantable medical system comprising:

a transmitting unit;

a receiving unit including an implantable, electrically operated, medical device, RF energy receiving means, and a rechargeable battery;

said transmitting unit including a power source, RF energy transmitting means, and first control means coupled to said RF energy transmitting means for controlling the amount of RF energy transmitted to said receiving unit thereby to conserve on the amount of power obtained from said power source; and
second control means coupled to said rechargeable battery, and to said implantable medical device, for adjusting the charging current flowing into said rechargeable battery.

8. The above observations were not readily appreciated until approximately late March 2000, when my attorney, Thomas R. Vigil, had a conversation with Mr. Eric Waldkoetter, attorney for the Assignee of my U.S. Patent No. 5,733,313, Medtronic, Inc. Mr. Waldkoetter pointed out to Mr. Vigil that the invention, residing in an RF coupled Implantable medical system for controlling the charging of a battery for an implanted device from a transmitting unit exterior of the body in which the device was implanted did not need feedback from the receiving unit. Accordingly, the provision of an RF transmitting unit in the receiving unit was an unnecessary limitation.

9. We did not discuss the breadth of the claims with our patent attorney at the time the application was allowed, since it was in the process of being assigned to Medtronic, Inc.

10. After receiving Mr. Waldkoetter's comments on the claim, Mr. Vigil then studied the specification, claims and drawings and the prior art of record and agreed that the scope of claim 1 without the limitation of an RF signal transmitting means in the receiving unit did not appear to be necessary to define the claimed RF COUPLED, IMPLANTABLE MEDICAL DEVICE WITH RECHARGEABLE BACK-UP POWER SOURCE over the prior art of record.

11. Mr. Vigil then suggested to Mr. Waldkoetter the filing of this Reissue application containing a new independent claim 29 in order to obtain the scope of desired coverage over the RF COUPLED, IMPLANTABLE MEDICAL DEVICE WITH RECHARGEABLE BACK-UP POWER SOURCE.

12. Mr. Waldkoetter agreed with Mr. Vigil's suggestion and on behalf of the Assignee, Medtronic, Inc., Mr. Waldkoetter instructed Mr. Vigil to prepare and file the Reissue application.

13. We believe that we are entitled to claim 29 for our RF COUPLED,

IMPLANTABLE MEDICAL DEVICE WITH RECHARGEABLE BACK-UP POWER SOURCE.

14. I further declare that all statements made herein or my own knowledge are true and that all statements made on information and belief are believed to be true; and that these statements are made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under § 1001 of Title 18 U.S.C. and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

15. I hereby appoint Mr. Thomas R. Vigil, Reg. No. 24,542, as my attorney to prosecute this application, to transact all business in the United States Patent and Trademark Office connected therewith, and to receive the Reissue Letters Patent, and direct that all correspondence be conducted with:

Mr. Thomas R. Vigil
c/o Vigil & Associates
836 South Northwest Highway
Barrington, Illinois 60010
Telephone: (847) 382-6500
Facsimile: (847) 382-6895

Wherefore, we hereby subscribe our names to the foregoing specification, claims and Abstract, Declaration and Power of Attorney.

Inventor's full name: Francisco Jose Barreras, Sr.

Citizenship: United States of America

Residence address: 1807 Southwest 102 Place
Miami, Florida 33181

Dated: 11 April, 2000.

Francisco Jose Barreras
Francisco Jose Barreras, Sr.

Inventor's full name: Oscar Jimenez

Citizenship: United States of America

Residence address: 1231 Medina Avenue
Coral Gables, Florida 33134

Dated: 5 April, 2000.

Oscar Jimenez
Oscar Jimenez

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ASSENT OF ASSIGNEE TO REISSUE

The undersigned Assignee of the entire Interest in the above-mentioned Letters Patent (U.S. Patent No. 5,733,313 granted March 31, 1998), and for which a Reissue patent is sought on the invention entitled: RF COUPLED, IMPLANTABLE MEDICAL DEVICE WITH RECHARGEABLE BACK-UP POWER SOURCE, hereby assents to the accompanying Reissue application as amended. A Certificate under 37 CFR 3.73(b) is attached.

MEDTRONIC, INC., Assignee

Dated: April 25, 2000.

By: [Signature]

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